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7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)	No. CR 08-0399 PJH
)	
12 Plaintiff,)	JOINT MEMORANDUM RE: JURY
)	INSTRUCTIONS
13 v.)	
)	Pretrial Conference: August 27, 2008
14 JAIME SALCEDO MENDOZA,)	
)	
15 Defendant.)	
)	

16 Having met and conferred pursuant to the Court's criminal pretrial order, the parties
17 jointly submit this pretrial memorandum concerning jury instructions.
18

19 **I. Agreed-Upon Instructions**

20 The parties agree that the Court should give each of the model jury instructions listed in
21 the Court's Order for Criminal Pretrial Preparation (*viz.*, 1.1 - 1.12; 2.1 - 2.2; 3.1- 3.9; and 7.1 -
22 7.6).

23 The parties further agree that the Court should give the following additional instruction
24 from the Ninth Circuit Manual of Model Criminal Jury Instructions ("MJ") (2003 ed., last
25 updated May 2007): **MJI 5.6** **Knowingly-Defined**
26

II. Disputed Instructions

The parties respectfully disagree concerning the following instructions.

A. MJI 4.1 – Statements by Defendant

The government wishes the Court to give this instruction. The defendant reserves the right to oppose the instruction, depending upon the statements the government seeks to introduce.

B. MJI 4.6 – Impeachment, Prior Conviction of Defendant

The government wishes the Court to give this instruction. The defendant, having moved to exclude introduction of his prior convictions, opposes the instruction.

C. MJI 4.17 – Expert Witness Testimony

The government wishes the Court to give this instruction. The defendant, having moved to exclude expert witness testimony, opposes the instruction.

D. MJI 9.5B – Alien—Deported Alien Found In United States

For reasons described in a separate memorandum, the government recommends a modification to the model instruction. The defense does not agree to the modification. Instead, the defense requests that the Court give the standard instruction.

E. Instruction on Law Enforcement Credibility

For reasons described in a separate memorandum, the defendant wishes the Court to instruct on law enforcement credibility. The government opposes such an instruction.

F. Instruction on General Intent

For reasons described in a separate memorandum, the defendant wishes the Court to instruct on general intent. The government opposes such an instruction.

G. Instruction on Proof of Alienage

For reasons described in a separate memorandum, the defendant wishes the Court to instruct on the government's burden of proof with respect to alienage. The government opposes

1 such an instruction.

2 **H. Instruction on Voluntariness**

3 For reasons described in a separate memorandum, the government wishes the Court to
4 instruct the jurors regarding evidence of voluntary acts by the defendant. The defendant opposes
5 such an instruction.

6 The parties will submit separate memoranda addressing each of these disputed jury
7 instructions.

8 Counsel for the United States has approved the form and contents of this joint
9 memorandum.

10 Dated: August 13, 2008

11 Respectfully submitted,

12 BARRY J. PORTMAN
13 Federal Public Defender

14 /S/

15 RONALD TYLER
16 Assistant Federal Public Defender
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